IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPLICATION NO.290 OF 2007

Shri Ramdas Shankar Jaid ..Applicant.
Vs.
The State of Maharashtra & Ors. ..Respondents.

Ms.Poonam Bhosale, adv. for the Applicant.
Ms.M.M.Deshmukh, APP for the Respondent/State.

CORAM : J.H.BHATIA, J.
DATE : JUNE 27, 2007.

P.C.

1. Heard the learned counsel for the parties.

2. The applicant has filed complaint under Section 138 of the Negotiable Instruments Act and after the trial, the trial Court acquitted the accused/respondent no.2. Therefore, the applicant has filed this application seeking leave to prefer appeal against the acquittal.

3. It is the case of the applicant/complainant that he had advanced an amount of Rs.50,000/- to the accused/respondent no.2 and towards the partial discharge of the said liability, the accused/respondent no.2 had issued two cheques dated 25-4-2004 and 5-5-2004 for the amount of Rs.5,000/- each. However, both the cheques were dishonoured on account of insufficient funds. After statutory notice also the

accused failed to make payment and hence, he filed the complaint. Plea of the accused was that he had taken loan of Rs.50,000/- by cheque and on 20th February, 2002 as a security of the same, the accused had also given two cheques to him. Later on, the whole of the amount was repaid, and, therefore, the cheques were not presented to the bank. In April, 2004, the accused had again taken hand loan of Rs.10,000/- from the complainant and had handed over disputed cheques. Thereafter, the complainant began to insist for interest on the previous loan amount as well as on second loan amount and it resulted into some dispute. Thereafter, the complainant approached to the police and amicable settlement took place in presence of the police officer and the police patil and accordingly, the accused paid Rs.20,000/- to the complainant in full and final satisfaction of the amount but the cheques were not returned to him at that time and they have been misused.

4. The complainant examined himself. The accused also examined himself and the police patil in support of his case. The trial Court believed the evidence led by the accused that the amount was already repaid before the cheque was dishonoured.

5. In the given circumstances, two views are

possible but at the same time, it can not be said that the view taken by the trial Court was perse wrong, illegal or perverse. Therefore, I find no reasons to grant leave to prefer appeal.

6. Application stands rejected summarily.

[J.H.BHATIA, J.]